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ILLINOIS UTILITIES COMMISSION AND THE WATER WORKS COMPANIES¹

By C. G. BENNETT²

State regulation of public utilities in Illinois commenced as early as 1871 when the Railroad and Warehouse Act went into effect, providing for a commission to regulate these two quasi public businesses. From then on down to a year or two ago, various acts were passed affecting other utilities, such as gas, telephone and telegraph companies, but there seems to have been no attempt on the part of the state to regulate water utilities. This was apparently considered a matter coming under the jurisdiction of the municipality for the reason that the field of operation of a water company is local and confined to the limits of the municipality.

To compile all these special acts into one compact form and further to give the state supervision of all phases of the organization, operation and character of service of every utility, an act was passed in 1913 known as an act to regulate public utilities. This is a most carefully drawn statute and gives the commission it creates a firm foundation upon which to stand when exercising the various powers delegated to it by this law.

The Public Utilities Law provides, among other things, that the commission may establish a uniform system of accounts, must pass on all contemplated stock and bond issues before the securities can be placed on the market; that all mergers, consolidations and reorganizations must be approved by the commission before they become effective, and last, and probably most important, the commission is given the power to determine and make reasonable rates and to establish standards of service. These are but a few of the more important subjects with which the law treats but are sufficient to show the scope of the work that the commission has to do. The utilities under its control are those engaged in the transmission, production, sale or delivery of heat, cold, light, power, gas, oil,

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electricity or water and the transportation of persons or property and transmission of telegraph and telephone messages between points within the state. By the definition of a public utility as contained in Article 10 of the law, plants that are municipally owned or operated do not come under the supervision of the commission and, therefore, municipal water plants have no dealings with the commission. There is, however, at the present time, a bill before the legislature to amend the law and bring all municipally owned or operated utilities under its jurisdiction.

The first meeting of the five commissioners, comprising the administration department of the commission, was held on January 2, 1914, one day after the law went into effect, and the cases pending and docket of the Railroad and Warehouse Commission were taken over. As this is a little over a year ago, the commission is obviously quite young; in fact, one of the youngest of the many similar commissions that are in operation in other states. In spite of the youth of the commission and of the great amount of work brought before it almost from the time of its inception, it has been able to meet the demand placed upon it. The organization of the commission is made up of four departments, namely, the administration, legal, engineering and accounting. Each of these departments has had to carry on the current matters together with the vast amount of detail incident to compiling of schedules, forms and regulations that will be used in the future to expedite the work. This explanation is here given to show the reason why so much of the work the commission is now doing is in the process of development and not available for the utilities. In other words the commission is just a little beyond the formative stage in many of the routine matters, although in utility regulation, it is old in experience.

Before utility commissions came into existence many noted cases of dispute between utilities and their consumers were fought out in the courts, several being water cases. The decisions of these cases have laid down the principles that guide the commissions in their decisions. Now that commissions are handling these cases it does not mean that the courts have no jurisdiction, for any case decided by the commission in this state can be appealed to the Circuit Court. This means that the courts regulate the public utility regulators. One function of the commission is to settle these disputes in the most expedient and inexpensive manner possible.

All complaints that come to the commission are settled in one of two ways, the method being determined by the nature of the case.

Where one or a few consumers only are affected by the decision to be rendered, as the dispute over a water bill or the adequacy of a certain street main, it is put down as an informal case. When the character of the service given or reasonableness of the rate is questioned, the decision, of course, will affect the entire community served. Such cases are put down as formal. This division is made so that the decision can be reached in the shortest possible time and to put all cases through the same channel would not be practical.

Informal complaints are settled by the commission in a way that the name indicates—informally. The consumer's complaint is received, given a number, referred to one of the three departments, legal, accounting or engineering, and immediately acknowledged. It is often evident that the complainant has a mistaken idea as to his rights and in such cases his complaint is disposed of by pointing out wherein he is wrong. More often a copy of the complaint or the substance of it is sent to the water company and a request made that a full statement of the facts be given. The complaint often settles itself at this juncture because the utility and the consumer get together and arrange it to the satisfaction of both. When this is not done and when all the facts have been put before it, the commission renders a decision in a letter to both parties, which decision must be accepted or the matter again brought up and this time as a formal case. Perhaps sixty per cent of the cases coming to the commission are informal ones, but it is remarkable how few of them involve water utilities. Many companies have been taking the letters of the commission on these informal complaints to their attorneys for reply. This procedure the commission has not contemplated and is considered practically a useless expense. All that is desired is a clear statement of the facts surrounding the case, and any officer of the company acquainted with these facts can give the information just as satisfactorily from the staff's point of view as can the attorney. The commission's letters are not written by lawyers and it would not seem that they should necessarily be replied to by lawyers. In other words, this practice is injecting an unnecessary expense into the settling of an informal case, unnecessary from the commission's point of view.

The other, or formal cases usually cover the question of rates or service affecting the community served as a whole. By far the majority are brought by the community because the idea is prevalent that the rate charged is too high, and the parties to the case

are the city and the company. A date is set for a hearing at which both are represented, usually by counsel, and all testimony is recorded. At this first hearing both sides are given a chance to give their views on the matter. Sometimes it happens that the key to the situation has been overlooked, and, upon its being pointed out by the presiding commissioner, and a suggestion made that they adjourn for a time and talk it over, an agreement results that is satisfactory to both parties. A number of water rate cases that threatened to be protracted and expensive were settled in this manner, the commission entering an order based on and containing the terms of the agreement, but the commission not passing on the reasonableness of the terms and rates agreed to. When there is no disposition to settle the case by agreement, and where it is a rate that is in contention, the utility is directed to make an inventory and appraisal of its property following the classification given by the commission.

The city usually puts in a valuation to support its contention, and it, too, is requested to make its valuation on the lines given in the classification. This lists the physical property of the utility under eight main heads, namely, Land, Transmission and Distribution, Buildings and Structures, Plant Equipment, General Equipment, Paving, Materials and Supplies and lastly, Non-Operating Property. Each main heading is subdivided in detail so that there is a place to put every kind of property used and useful to the utility in its business of supplying water. There is not usually much coöperation between the city and the company during the process of settling a rate case before the commission, but when both follow this outline, the valuations presented are easily compared. This saves time on the part of all concerned and as the lawyers and experts employed by each side do not work for the pure joy of it, this means a saving of money.

This classification is but the first step toward making up a set of instructions for the preparation of valuations. The different items going to make up unit costs will be set forth fully. Take, for instance, a distribution system, the main items entering are the cost of the material and the cost of placing it. The cost of material is arrived at by taking the cost of pipe, specials, valves, hydrant and lead at the foundry and adding to each the freight, handling, store-room charges and cost of hauling to the job. Under the item of labor is included cost of trenching, backfilling, placing, jointing tools and minor incidentals. Both the material and labor charge reduced

to cost per foot and added gives the unit cost of a main, and apparently there is no chance for confusion here. Going a step further, however, we often find two witnesses, both qualified to testify on overhead, may not agree at all closely as to the percentage to be applied. This difference of opinion is apparent only, for, after much examination and cross examination, it is shown that where one witness includes in his percentages the cost of engineering, superintendence, insurance and interest during construction, legal expenses and contingencies, the other is testifying to the same plus a contractor's profit. The first witness has figured his contractor's profit into his unit costs. The commission's aim in preparing these detailed instructions is to avoid just such confusion as this and thereby shorten the hearings down to a minimum, and still give each party to the controversy time to put in all testimony and exhibits pertinent to the point at issue.

A recent valuation submitted to the commission is worthy of note. As an inventory or list of the physical property it was very useful, but as a valuation it is of little help. At the first hearing it was brought out that the value placed on each item represented the utility's idea of the cost new depreciated, or present value, with an addition for overhead and going value. The attorney for the city made the company witness, the expert who prepared the valuation, admit that he knew of no other way to make one that would give less information to the commission. This, however, was not a water case, but is cited here to show what the commission considers the way *not* to present facts.

The correct compiling of financial and statistical statements from the books of the company is equal in importance to a correct valuation for rate making purposes, as a rate cannot be established with either alone. For this reason a detailed memorandum or set of instructions is being prepared directing the utility how to submit with this valuation the following statistical statement: record of gross pumpings for last five years by months, total water sold to metered consumers for the last five years, classification of consumers by amount consumed for the year, classification of private consumers by nature of premises served; also by size of meter, and lastly, flat rate consumers, fixtures installed in each premises and present income from each. Some of the more important financial statements about which detailed instructions will be given and their compilation are comparative balance sheets for the year closing on the date of the

valuation, fixed capital account as of the same date and a detailed statement of operating expenses, revenues together with income and profit and loss account for the last five years ending on the date of the valuation or any other date that may be determined by the commission. Some states have prepared and distributed such instructions for making valuations as have been described, for instance, the Ohio Commission. The staff's idea at the present time is to go quite a little beyond what the Ohio Commission has done in this matter and show the utility just how and in what order the facts should be presented. To do the work in the way the commission has asked may seem a hardship to the utility at the time the work of valuation is being carried on, but if some of the hearings now being held by the commission could be attended, and the great loss of time occasioned by the lack of coöperation or following of the same general scheme could be noted, the most critical would be fully convinced that there is a great need for a uniformity in presenting facts.

When the water and other utilities of the State were asked to file with the commission their schedule of rates, special contracts and franchises under which they operate, it was the first step of the commission toward fulfilling the function for which it was created—the regulation of public utilities. Those schedules have been gone over by the rate department and in some cases conditions found that will be remedied by the help of the commission, but which the water companies have not been able to adjust without creating unpleasant relations between themselves and a few of their consumers. Special contracts giving a lower rate to certain large consumers have in some cases been inherited by the present owners of the utility at the time the physical plant was purchased. As a privilege once obtained is soon regarded as a vested right, it is nearly impossible to demonstrate to the favored consumer that discrimination in his favor is not just. A set of instructions is now being prepared directing just how these schedules shall be arranged and just what the commission will recognize as a rate in force. As stipulated in Section 38 of our law, no utility shall grant any preference or advantage to any consumer. Standing on this and further enforced by the instructions, soon to become an order, the utilities selling water on those inherited and unjustly discriminatory contracts can and, in fact, must abrogate them and put the heretofore favored consumers on the regular rates. In this way the utility is absolved

from any controversy and the conditions are remedied to its satisfaction. One case brought to the attention of the commission showed that a water company was selling over half of its output under special contracts for a rate that did not yield a fair return on the investment and although the utility was assured of this fact, it could not seem to eliminate these discriminatory contracts because they had been in force practically ever since the plant started.

The commission is given authority to establish a uniform system of accounts, and toward this end the utilities were asked to fill out an annual report form sent out about the first of this year. In going over those reports that have come in, over half do not give the information asked for, apparently because the utilities' books are not kept in a way that will allow of obtaining the desired information. A system of accounting that would give this is absolutely essential for the most efficient operation of a plant but it is during the last few years only that water works men have begun to realize this fact. One operator at a small plant figured that he lost several hundred dollars last year because he had to put in a new boiler, but he "guessed" he would make a little money this year or next. A system of accounts has been prepared in tentative form and when put into effect by the various utilities, there is little doubt that the trouble of changing from the present method of bookkeeping, in some cases extremely haphazard, to that prescribed by the commission, will be insignificant in comparison to the benefit received.

The information that the commission will obtain from these annual reports when submitted correctly will be worked up into statistical form and can be obtained by any water utility for the asking. Each can then see just how its cost per thousand gallons pumped compares with the other companies in the State and what will be of more value, how it compares with plants operating under similar conditions. No two costs, of course, will be identical, for local conditions will influence the ultimate result, but an operator, with all these facts in front of him, can analyze his own operating costs and taking into account his local problems, can find out just how he stands. From this it can be seen just how important it is that all the information asked for be given in these reports. This first form contained several pages covering the physical property, but this will be eliminated from subsequent reports and only additions asked for.

A set of general rules for the guidance of water utilities is now being prepared by the staff. These are similar to the rules adopted by the commission covering gas and electric service. These rules will establish the allowable error on water meters, specify the equipment the water company must have for meter testing, the time that a meter can remain in service without a test, the charge the commission will make for request tests and regulations about the kind of test record that must be kept, etc. Before the commission adopts any of these service rules, they will be sent out in tentative form to the water companies and a date set for a hearing at which time any changes that are shown to be necessary by the utilities will be made. After the rules are adopted they will be published and sent out to the water companies in placard form to be posted in a conspicuous place in the business office.

The commission is trying to accomplish for the consumer a satisfactory service, for the utility a fair return on the investment commensurate with the service and a better understanding between the utility and the consumer. The latter is largely a matter of education, for the average consumer does not realize the investment made on the part of the utility to bring water into his premises and the continual outlay necessary to keep the service satisfactory. In one city there is a movement on foot to bring the question of rates to the commission with the request that they be lowered. The leaders of this movement feel the consumers should be given water for almost nothing for they say "the water company gets the water right out of the ground here in the city so why shouldn't we be given the lower rate that we ask for?"